

REMARKS/ARGUMENTS

This Amendment is submitted in response to the first Official Action of June 15, 2004. Reconsideration and allowance of claims 1-16 remaining in the application are respectfully requested.

The present invention is concerned with an electrosurgical forceps having specially shaped electrode structures affixed to its jaws so that when the jaws are closed about tissue structures a modest tensioning and stretching of the tissue takes place, thereby improving desiccation, sealing and cutting. More particularly, in a first embodiment, the electrosurgical instrument comprises a handle with a body joined to the handle and a jaw assembly joined to the body and arranged such that manipulation of the handle allows tissues at a surgical site to be clamped between opposed jaws of the assembly. A first of the opposed jaws has a first sealing electrode, said first jaw being formed with a recess that extends longitudinally along the length axis thereof. The recess has first and second sidewalls. Each sidewall has at least a portion extending at an oblique angle to the width axis of the jaw assembly. The other of the opposed jaws has a second sealing electrode. Its cross section exhibits a raised central zone that is adapted to conform to the recess of the first jaw for pinching and tensioning the tissue when at least one of the jaws is made to close relative to the other jaw. Completing the instrument is a cutting electrode that is supported by one of the opposed jaws.

The specification has been amended to provide antecedent wording for the amendments to claim 1 and is fully supported by the drawings as filed. No new matter has been introduced.

The Official Action rejected all 14 claims as originally filed as having been anticipated under 35 U.S.C. §102(b) by U.S. Patent 6,174,309 (the '309 patent) to Wrublewski. The amendments made herein patentably distinguish over the teachings of the cited '309 patent. Referring to the drawings of the '309 patent, and especially to Figures 5A-5I thereof, the electrode surfaces on the upper and lower jaws are generally flat, save for longitudinal serrations j_i which are adapted to receive the ribs on the electrode surface of the upper jaw therein. The purpose of the serrations and ribs is to

Serial No. 10/657,378
Amendment Dated August 18, 2004
Reply to Office Action of June 15, 2004

grip tissue and better urge the electrode surfaces into conductive contact. See column 6, lines 63-66. The jaw faces do not tension and stretch the tissue as the jaws come together.

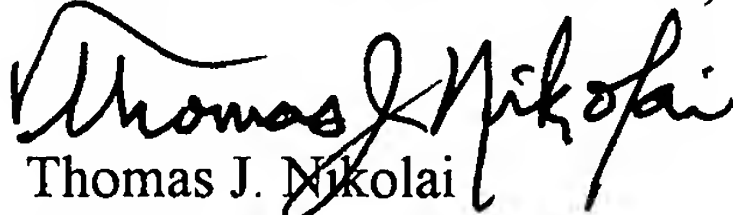
Applicants' claim 1 has been amended so as to require that a first of the opposed jaws have a recess with first and second sidewalls that have a portion thereof extending at an oblique angle to the width axis of the jaw assembly. The second of the opposed jaws has a raised central zone that is adapted to conform to the recess of the first jaw for pinching and tensioning the tissue when the jaws are made to close relative to one another. Clearly, the '309 patent has no disclosure of jaws having the shape configuration now being claimed. More importantly, there is no teaching or suggestion in the '309 patent of a jaw shape that is effective to tension tissue as it is being squeezed between the jaws to inhibit wrinkling of the tissue to be sealed and cut.

Not only does the '309 patent being cited fail to teach the jaw shape as it is now claimed, but applicants and their attorney are unaware of any prior art electrosurgical instrument having its jaws shaped in the manner now claimed in independent claim 1. Accordingly, claim 1 is now believed to be in condition for allowance. In that claims 2-16 depend either directly or indirectly from independent claim 1, they, too, should now be in allowable form. Further, claims 3, 8, 11, 15 and 16 add structural features neither taught nor suggested by the prior art cited and should be found patentable in their own right.

For the reasons presented, all of the claims remaining in the application are believed to be in condition for allowance and a Notice to that effect is most earnestly solicited.

Respectfully submitted,

NIKOLAI & MERSEREAU, P.A.



Thomas J. Nikolai

Registration No. 19,283

900 Second Avenue South, Suite 820

Minneapolis, MN 55402-3325

Telephone: 612-339-7461


Fax: 612-349-6556

Serial No. 10/657,378
Amendment Dated August 18, 2004
Reply to Office Action of June 15, 2004

CERTIFICATE OF MAILING

I hereby certify that the foregoing in response to the Official Action of February 18, 2004, in application Serial No. 10/657,378, filed on August 10, 2004, of Scott T. Latterell, et al. entitled "Bipolar Electrosurgical Instrument for Cutting, Desiccating and Sealing Tissue" is being deposited with the U.S. Postal Service as First Class mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. BOX 1450, Alexandria, VA 22313-1450, postage prepaid, on August 18, 2004.

Date of Signature: August 18, 2004.



Linda J. Rice
On Behalf of Thomas J. Nikolai
Attorney for Applicant(s)